

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

WINERIES OF THE OLD MISSION
PENINSULA ASSOCIATION, *et al.*,

Plaintiffs,
v.

Case No: 1:20-cv-01008

PENINSULA TOWNSHIP, Michigan Municipal
Corporation,
Defendant,

Honorable Paul L. Maloney
Magistrate Judge Ray S. Kent

and

PROTECT THE PENINSULA,

ORAL ARGUMENT REQUESTED

Intervenor-Defendant.

**PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT
ON PREEMPTION CLAIMS**

Plaintiffs, through their undersigned counsel, move pursuant to Federal Rule of Civil Procedure 56 for partial summary judgment on Counts VIII and IX of their First Amended Complaint as there is no genuine issue of material fact and Plaintiffs are entitled to judgment as a matter of law. Plaintiffs rely on the accompanying brief in support of this motion.

WHEREFORE, Plaintiffs respectfully request that this Court enter a judgment in their favor and find Sections 6.7.2(19)(a) (no restaurant), 6.7.2(19)(b)(1)(iv) (limited food), 8.7.3(10)(u)(2)(b) (no full course meals), 8.7.3(10)(u)(2)(e) (no food service), 8.7.3(12)(j) (packaged food for off-premise consumption, only), 8.7.3(10)(u)(5)(b) (limited hours), 8.7.3(10)(u)(5)(g) (no amplified instrumental music) and 8.7.3(10)(u)(5)(i) (no catering) of Peninsula Township's Ordinances are preempted by Michigan law. Plaintiffs further request that this Court enter a judgment in their favor and find that the sections of the Winery Ordinances this Court has concluded are unconstitutional or preempted violate the Michigan Zoning Enabling Act. Finally, Plaintiffs further request that this Court award them their cost and attorneys' fees incurred

in this action pursuant to 28 U.S.C. § 1988 as well as the damages they have incurred due to the Township's conduct in an amount to be determined at trial.

Respectfully submitted,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

By: /s/ Joseph M. Infante

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Dated: April 18, 2023